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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,535	10/28/2003	Wamis Singhatat	ZL 0191	6431
23367	7590	11/14/2005	EXAMINER	
GENE WARZECHA LINVATEC CORPORATION 11311 CONCEPT BOULEVARD LARGO, FL 33773			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,535

Applicant(s)

SINGHATAT ET AL.

Examiner

Thomas J. Sweet

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/21/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 13-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/21/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I species A (claims 1-12 only) in the reply filed on 10/21/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim (US 6,355,066). Kim discloses a ligament fixation implant (title) comprising; a frame (fig. 9A) comprising a plurality of elongated members (64 and 66) situated in longitudinal alignment with an axis; a plurality of rings (60 and 62) connected to each of the elongated members and aligned transversely to the elongated members.

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With regard to claim 2, The ligament fixation implant of claim 1 wherein the elongated members have a distal end and a proximal end and further comprising a radially outwardly extending projection (the rim of ring 62) secured to the proximal end of each of the elongated members.

With regard to claim 3, the distal end of each of the elongated members is tapered (as seen in fig. 9b the most distal barb tapers towards the end).

With regard to claim 8. The ligament fixation implant of claim 1 further comprising an interference screw (13) having a body with a proximal end, a distal end, and a longitudinal axis therebetween, a helical thread (74) extending radially from the screw body, the helical thread having a distal major diameter adjacent the distal end and a proximal major diameter adjacent the proximal end, the proximal major diameter being greater than the distal major diameter (as seen in the figure), the screw is inherently able to be inserted axially through the rings along with a ligament to cause the ligament to bulge radially outwardly and grip the rings.

With regard to claim 9, The ligament fixation implant of claim 8 wherein the screw causes the ligament to bulge more proximally than distally (inherent given a uniformly thick ligament since the screw is tapered).

With regard to claim 11, the elongated members have a distal end and a proximal end and the rings are each spaced a predetermined respective distance from the proximal end of the elongated members, the screw thread proximal major diameter being fully capable of being substantially contained in the space between the proximal end of the elongated members and the rings when the screw is fully inserted (since the space is large than the thread).

With regard to claim 12, the screw inherently causes the proximal ends of the elongated members to deflect outwardly to tightly engage the bone (since threads 68 and 70 exist to engage the thread of the screw 74) .

Claims 1-2, 4-9 and 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bojarski et al. (US 6,746,483). Bojarski et al discloses a ligament fixation implant (title) comprising; a frame (fig. 7A) comprising a plurality of elongated members (shown vertically in the fig.) situated in longitudinal alignment with an axis; a plurality of rings (shown quasi-horizontally in the fig.) connected to each of the elongated members and aligned transversely to the elongated members.

With regard to claim 2, the elongated members have a distal end and a proximal end and further comprising a radially outwardly extending projection (the rim of ring 280) secured to the proximal end of each of the elongated members.

With regard to claim 4, each of the plurality of rings is connected to each of the plurality of elongated members such that the rings are held together in a fixed longitudinal spacing along the axis (as shown in the fig.).

With regard to claims 5 and 6, the rings are each spaced a predetermined respective distance from the proximal end of the elongated members and perpendicular to the axis (a mesh, evenly spaced as shown in the fig.).

With regard to claim 8, further comprising an interference screw (fig. 2C) having a body with a proximal end, a distal end, and a longitudinal axis therebetween, a helical thread extending radially from the screw body, the helical thread having a distal major diameter

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adjacent the distal end and a proximal major diameter adjacent the proximal end, the proximal major diameter being greater than the distal major diameter (as shown in the fig.), the screw inherently is able to be inserted axially through the rings along with a ligament to cause the ligament to bulge radially outwardly and grip the rings.

With regard to claim 9, The ligament fixation implant of claim 8 wherein the screw causes the ligament to bulge more proximally than distally (inherent given a uniformly thick ligament since the screw is tapered and the fixation device is a right circular cylinder).

With regard to claim 11, the elongated members have a distal end and a proximal end and the rings are each spaced a predetermined respective distance from the proximal end of the elongated members, the screw thread proximal major diameter being substantially contained in the space between the proximal end of the elongated members and the rings when the screw is fully inserted (as seen in fig. 3).

With regard to claim 12, the screw further causes the proximal ends of the elongated members to deflect outwardly to tightly engage the bone (inherent since the screw has a wedging action).

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tjs



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